The legal and ethical dilemmas of abortion counseling and informed consent

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October 17, 2012
Overview

- Snapshot of American abortion
- Differentiate counseling and consent terms
- Review practices of licensed abortion facilities
  - Laws governing licensed abortion facilities
- Review practices of crisis pregnancy centers
  - Laws governing crisis pregnancy centers
- Ethical dilemmas of counseling and consent
- Discussion, questions
Abortion in the U.S.

- Of the 6.6 million annual pregnancies, 19% result in induced abortion
- 89% of all abortions occur during the first 12 weeks of pregnancy

Jones, Finer, & Singh (2008)
U.S. Abortion by Age

Jones, Finer, & Singh (2008)
Abortion in the U.S.

- 61% of abortions are obtained by women who have one or more children
- 42% of abortions are to women whose incomes are less than 100% of the federal poverty line
- 45% of abortions are to never-married, not cohabiting women

Jones, Finer, & Singh (2008)
Counseling vs. Informed Consent

- Options Counseling
- Abortion Counseling
- Abortion Procedure
- Informed Consent
## Counseling vs. Informed Consent

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<tr>
<th>Crisis Pregnancy Centers</th>
<th>Licensed Abortion Facilities</th>
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Licensed Abortion Facilities

- Abortion Counseling
- Informed Consent for Abortion Procedure
Legal Mandates for Licensed Abortion Facilities

- Informed consent from a legal perspective
- Special legal requirements in the case of abortion
  - Vary widely by state
  - Maryland abortion law
  - Other state counseling/consent laws
Crisis Pregnancy Centers

- What are they?
- What services do they offer?
  - “Medical” services
  - Options counseling
CPCs and the Law

- Recent developments in the regulation of CPCs
Ethical Basis of Informed Consent

- Bioethical principles in medical ethics:
  - Autonomy or Respect for Persons
  - Beneficence
  - Justice

- Informed consent as a reaction to heavily paternalistic practice of medicine

- Goal: informed decision-making and self-determination
What information should be disclosed?

Minimum requirements include statement of risks, benefits, alternatives – what else?

- Specific language mandates?
- Should women ever be able to opt-out of information disclosure?

When does information/disclosure shift from being autonomy enhancing to paternalistic or even coercive?
Striking a Balance

- **Practical**
  - No information
  - Some information
  - Too much information?

- **Ethical**
  - Autonomy Infringement
  - Autonomy enhancement
  - Autonomy Infringement

- **Political**
  - No interference
  - Soft Paternalism
  - Coercion?
Potential Sources of Coercion

- Information itself
- Status of person providing consent
- Environment
- Sense of urgency
Is Abortion Different?

- Does informed consent for abortion require new or modified guidelines?

- Are the challenges of achieving informed decision-making because of the unique characteristics of abortion, or are they symptomatic of broader deficiencies in current medical practice?
Discussion